

REMARKS

Claims 1-7 are currently pending in this application. In the Office Action, the Examiner has rejected Claims 1-7 under 35 U.S.C. § 102(e) as being anticipated by *Soliman* (U.S. 6,321,090 B1).

Claims 1, 3, and 7 each recite searching FAs of adjacent stations excluding a base station currently engaged in communication with said mobile communication terminal. The current base station is excluded to prevent the mobile terminal from performing a hard hand-off back to the same base station. That is, the present invention prevents an unnecessary hard hand-off operation from being performed because the common FAs of all the base stations, including the base station currently engaged in communication, are not searched, i.e., the currently engaged base station is excluded. This teaching is not disclosed in any section of *Soliman*. Rather, *Soliman* uses GPS positioning information to assist with a hard hand-off.

In the Response to Argument section of the Office Action, the Examiner cites column 4, lines 22-66, column 7, lines 40-67, and column 8, lines 1-31 of *Soliman* as teaching this recitation. However, upon reviewing this cited text, and the remaining sections of *Soliman*, not only is there no any teaching of “searching FAs of adjacent stations excluding a base station currently engaged in communication with said mobile communication terminal,” as would be required for a valid rejection under 35 U.S.C. § 102(e), *Soliman* teaches just the opposite. More specifically, column 7, lines 62-64, recite that the active set of signals that are searched contains all the pilot signals that the mobile unit is *currently* or potentially demodulating, i.e., *Soliman* teaches searching adjacent stations including a base station currently engaged in communication with said mobile communication terminal.

Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting Claims 1, 3, and 7 under 35 U.S.C. § 102(e) as being anticipated by *Soliman*.

Additionally, as this is a Final Office Action, applicant respectfully requests withdrawal of the finality of the Office Action.

Based on at least the foregoing Independent Claims 1, 4 and 7 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5 and 6, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5 and 6 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-7, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/MJM